IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11942 of 2004

Between:

Gaguloth Raju, S/o. Somula,
R/o. Bheekya Thanda, Nalgonda District.

..... PETITIONER

AND

1 The Prohibition and Excise Station, Kodad, Nalgonda District.
2 The Deputy Commissioner of Proh. and Excise,
Mahaboobnagar Division, Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, to declare the action of the 1st respondent in seizing 175 Black Jaggery and 5 bags of Alum under P.R. No. 589/2000-01 as illegal, arbitrary and consequently direct the respondents herein to release the said stocks.

Counsel for the Petitioner: MR.P.NAGESWARA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the respondents in not passing any orders on the representation of the petitioner for release of the seized goods of 175 bags of Black Jaggery and 5 bags of Alum in connection with P.R.No.589/2000-01, dated 24.03.2001.

2. According to the petitioner, the respondent-authorities inspected the premises of the petitioner, where he has been carrying on the business in Black Jaggery and other kirana items and seized the above quantity of Black Jaggery and Alum on 24.03.2001, though, there is no material showing that the petitioner is involved in any illegality with reference to the manufacture of illicit liquor. Thereafter, according to the petitioner, he made an application to the second respondent seeking release of the seized material on furnishing Bank Guarantee. But, however, the second respondent did not pass any orders so far. Therefore, the petitioner has come up with the present writ petition.

3. The learned counsel for the petitioner stated that the petitioner has been purchasing the Black Jaggery and other kirana items from the wholesalers and getting it transported under valid waybill and carrying on business as a retail seller. Therefore, there is no illegality that was committed by the petitioner, hence sought for an order for release of the seized goods.

4. Heard learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise.

5. It is the case of the petitioner that the respondents seized the above-mentioned Black Jaggery and Alum for the alleged involvement of the petitioner in the manufacture of illicit distillation of liquor by using these items. The contention of the petitioner is that there is no control or restriction with reference to holding as well as dealing with the items of Black Jaggery and Alum. As the petitioner is a retail dealer in Black Jaggery and Kirana items, he used to purchase these items from the wholesalers, keep it in his business premises and sell the same to the customers, whoever come to his business premises. Further, it is the case of the petitioner that these items are freely available in the market to any person, who ever wants to purchase.

6 . Therefore, under the above circumstances, if the petitioner furnishes Bank Guarantee, there may not be any objection to the respondents to release the seized goods.

7. The learned Government Pleader contended that it is not clear whether the Black Jaggery seized in the year 2001 is still fit for human consumption or for any other purpose and therefore, it may not be appropriate to release the goods at this stage.

8 . Taking into account the above considerations and also the prevailing circumstances, the second respondent is directed to dispose of the application of the petitioner for release of the seized goods in favour of the petitioner on furnishing Bank Guarantee of the value determined by the second respondent. The release shall be subject to the final orders that would be passed by the second respondent. The second respondent is directed to pass appropriate orders on the representation of the petitioner for releasing the goods within a period of two weeks from the date of receipt of a copy of this order.

9. The writ petition is accordingly disposed of with the above directions.

14.07.2004

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To

1 The Prohibition and Excise Station, Kodad, Nalgonda District.

2 The Deputy Commissioner of Proh. and Excise,
Mahaboobnagar Division, Mahaboobnagar District.

3 Two CCs to G.P. for Prohibition & Excise, High Court of A.P.

Buildings, Hyderabad (OUT)

4 Two CD Copies